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Letter dated 9 September 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 22 July 2002 (S/2002/815).

The Counter-Terrorism Committee has received the attached supplementary report from Azerbaijan submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its attachment to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 26 August 2002 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Upon instructions of my Government and in response to your letter dated 10 June 2002, I have the honour to convey to the members of the Counter-Terrorism Committee a further report of the Government of the Republic of Azerbaijan. In accordance with paragraphs 3 to 6 of the Counter-Terrorism Committee guidance note of 26 October 2001, the report addresses questions expressed in the above-mentioned letter.

(*Signed*) Yashar **Aliyev**
Permanent Representative

Enclosure

[Original: Russian]

Supplementary report of Azerbaijan to the Counter-Terrorism Committee

- **Subparagraph 1 (a)**

Question: Could Azerbaijan please clarify whether its Counter-Terrorism Act includes provisions dealing with the financing of terrorism? If so, please provide an outline of the relevant provisions.

The 1999 Counter-Terrorism Act of Azerbaijan contains no provisions on the suppression of the financing of terrorism. At the time of the adoption of the Act, Azerbaijan was not a party to the International Convention for the Suppression of the Financing of Terrorism (ratified on 1 October 2001). All the necessary legislative steps are currently being taken to implement its provisions. In particular, the law on counter-terrorism now being drafted by the Milli Mejlis (Parliament) contains a definition of the financing of terrorism as well as special measures designed to suppress it, including the detection, freezing, seizure and confiscation of funds intended for the financing of terrorist acts.

Nevertheless, it should be pointed out that article 1 of the above-mentioned Counter-Terrorism Act defines "terrorist activities" and indicates that an activity linked with the wilful financing of a terrorist organization or terrorist groups or the provision of other assistance to them constitutes terrorist activity in another form. In accordance with article 2 of this Act, the legislation on counter-terrorism consists of the Constitution of the Republic of Azerbaijan, international treaties to which Azerbaijan is a party, this Act and other legislative acts of the Republic.

As already indicated above, on 1 October 2001 the Parliament of the Republic of Azerbaijan adopted the Act on the Accession of the Republic of Azerbaijan to the International Convention for the Suppression of the Financing of Terrorism, and on 23 October 2001, this Act, having been published in the *Official Gazette*, was designated for implementation.

Under articles 148 and 151 of the Constitution of the Republic of Azerbaijan, international treaties to which Azerbaijan is a party constitute an integral part of the legislative system of Azerbaijan and in the event of any conflict between the country's normative legal acts and those international treaties, the norms embodied in the international treaties shall apply.

Thus, in the light of the foregoing it may be concluded that the International Convention for the Suppression of the Financing of Terrorism is an integral part of the legislative system of Azerbaijan and is in force in its territory.

Question: Please provide a detailed outline of the relevant provisions of the Counter-Terrorism Act that cover the acts required by the resolution to be criminalized.

The provisions of the legislation of Azerbaijan on the suppression of crimes linked with terrorism referred to in resolution 1373 are as follows.

Under articles 1, 17 and 19 of the Counter-Terrorism Act, terrorist activities also include the financing of terrorist entities or terrorist groups or the provision of other assistance to them: persons who participate in terrorist activities bear responsibility in the manner prescribed in the legislation of Azerbaijan: on grounds of a link with terrorist activities, an entity (its affiliate or mission) operating in the territory of Azerbaijan, may, in the manner established by the legislation of Azerbaijan, be dissolved on the basis of a court decision.

Under articles 17 and 21 of the Counter-Terrorism Act, officials and citizens who violate the Act bear responsibility in the manner prescribed by the legislation of Azerbaijan; persons who participate in terrorist activities bear responsibility in the manner prescribed by the legislation of Azerbaijan; in the interests of upholding human rights and freedoms and safeguarding State and international security, persons who commit terrorist acts or participate in the commission of such acts, wherever such acts may have been planned or committed, are brought to trial and sentenced in accordance with the law of Azerbaijan and under international treaties endorsed by Azerbaijan, or may be extradited to a foreign State stand trial or to serve their appointed sentence.

The criminal legislation of Azerbaijan provides for responsibility for terrorism in article 214 of the Criminal Code of Azerbaijan. Under this legislation, persons who finance terrorism bear criminal liability for participation in terrorism and are tried in accordance with the provisions of article 214. The special provisions of the Criminal Code (articles 31-34) that deal with the conceptions, types of participation and responsibility of those who participate preclude the legal possibility on the part of such persons of evading responsibility. The criminal legislation of Azerbaijan defines participators as those who commit, organize or instigate crimes or serve as accomplices in their commission, whatever the circumstances may be regarding the persons who have financed terrorism.

The question of a person participating in a terrorist act against a public or government agent (article 277 of the Criminal Code) is resolved in the same way as in the case of a person participating in any other crime specified in the Criminal Code of the Republic, insofar as the provisions on such participation are identical.

It is clear from the above that the absence of any special article in the Criminal Code establishing criminal liability for the financing of terrorism does not exempt persons guilty of such acts from criminal liability.

On the basis of article 12.1 of the Criminal Code, citizens of Azerbaijan and permanent residents of Azerbaijan who are stateless and who commit crimes beyond the borders of Azerbaijan are subject to criminal liability under the Criminal Code of Azerbaijan, if such acts are considered a crime in Azerbaijan and in the State in whose territory the act was committed, and if such persons have not been tried in the foreign State.

Article 12.3 of the Criminal Code states that foreign nationals and stateless persons who commit such crimes as terrorism, the hijacking of aircraft, the seizure of hostages, the illegal diversion of narcotic drugs and psychotropic substances, the production or sale of counterfeit money or securities, attacks against persons or organizations enjoying international protection, and other crimes the liability for which flows from the international agreements concluded by Azerbaijan, are subject

to criminal liability and punishment in accordance with the Criminal Code of Azerbaijan, without regard to the place where the crimes were committed.

As is seen from the foregoing, the criminal legislation in force in the Republic provides the necessary legal basis for the trial and sentencing of criminals for actions involving the financing of terrorism. Moreover, these provisions also exclude the possibility of the granting of asylum to such persons or the use of the territory of Azerbaijan for the commission of terrorist acts.

Question: Please provide a progress report on the refinement of the Azerbaijan legislation dealing with counter-terrorism.

The refinement of national legislation dealing with counter-terrorism is being carried out in various ways. First, the adoption of a new, special act on counter-terrorism is under consideration. This act will comprise various aspects of combating organized terror. They will include measures to combat the financing of terrorism, the granting of legal assistance, the protection of persons assisting in the suppression of terrorism, the extradition of criminals, etc. Secondly, with a view to ensuring the inevitability of bringing criminals, including terrorists, to justice, in 2001 the Act on Extradition of Criminals was adopted. Under this Act, it is forbidden to characterize the actions of terrorists as political crimes, thereby ensuring their extradition to stand trial. In addition, in the event of refusal to extradite terrorists on grounds provided by the legislation in force, they may be sent for trial under the Criminal Code of Azerbaijan. In the case of terrorism, as in the case of other international crimes, the legislation of Azerbaijan proceeds from the principle of *aut dedere aut judicare (*either extradite or send for trial). Thirdly, the new criminal legislation of Azerbaijan not only establishes responsibility for terrorism but also lays down a universal jurisdiction for it. Under article 12.3 of the Criminal Code of Azerbaijan, persons who commit terrorist acts, regardless of the place of commission of the crime, may be tried and sentenced on the basis of the said Criminal Code.

A new act on counter-terrorism is currently being drafted (see subparagraph 1 (a)) which will provide for a whole range of measures to combat the financing of terrorism and to ensure international cooperation in the granting of legal assistance in matters of terrorist crimes, the extradition of terrorists, the protection of persons who assist in the administration of justice, etc. In addition, the adoption of measures for the suppression of the financing of terrorism will affect financial and banking laws. Measures will be taken to uncover and freeze funds that could be used for the commission of terrorist acts. It is also proposed to draft a special act on the laundering of funds derived from criminal activities.

Since article 5 of the International Convention for the Suppression of the Financing of Terrorism, in addition to criminal and civil liability, also establishes administrative liability, it seems appropriate to make the corresponding amendments to the Code on Administrative Violations, bring the Taxation Code into line with article 13 of the Convention, define the specific types of liability in article 17 of the Counter-Terrorism Act in accordance with the Convention, and introduce the corresponding amendments, taking into account the sixth preambular paragraph and other articles of the Convention, into the normative legal acts on charitable activities, public associations, banking activities, currency regulation and securities.

- Subparagraph 1 (b)

Question: Please explain whether it is proposed to include specific provisions in the Criminal Code to criminalize the financing of terrorism as a consequence of Azerbaijan becoming a party to the International Convention for the Suppression of the Financing of Terrorism.

Ratification of the International Convention for the Suppression of the Financing of Terrorism and the adoption at en early date of the Counter-Terrorism Act make it necessary to criminalize the financing of terrorism. In that connection, the requisite amendments will be made in the near future to the Criminal Code of Azerbaijan.

In particular, following the entry into force of the Act on the Accession of the Republic of Azerbaijan to the International Convention for the Suppression of the Financing of Terrorism, pursuant to Decree No. 818 of 11 October 2001 of the President of the Republic of Azerbaijan relating to bringing the existing legislative acts into line with the International Convention for the Suppression of the Financing of Terrorism, the Ministry of Justice of Azerbaijan drafted a law and submitted it to higher authorities. It provides for the addition to the Criminal Code of Azerbaijan of a new article establishing liability for the financing of terrorism, as well as for the collection and provision of funds for such purposes.

Question: Do the instructions issued by the Central Bank of Azerbaijan to the financial institutions have the force of law?

Under article 3.4 of the Act on Normative Legal Acts of 26 November 1999, the regulations, instructions and directions of the National Bank of Azerbaijan — which, in accordance with the National Bank Act and the Act on Currency Regulation, is an organ of bank control and currency regulation — apply to acts of a normative character and therefore require mandatory implementation by all financial institutions to which they are addressed. The instructions of the National Bank of Azerbaijan are mandatory after they have been registered by the Ministry of Justice and published.

Question: Are financial institutions, intermediaries outside the main financial sector (e.g. lawyers) and other natural or legal persons required by law to report suspicious transactions to the relevant public authorities? If so, what are the penalties for non-compliance? If not, do the proposed amendments address this issue?

In accordance with the legislation governing the activities of natural or legal persons, such persons are required, should the grounds exist, to inform the relevant State authorities of suspicious transactions. Failure to report on known grave or particularly grave crimes that were being planned or have been committed, as well as wilful concealment of such crimes, entails criminal liability in accordance with article 307 of the Criminal Code of Azerbaijan. In addition, officials who use their official position out of personal interest to the detriment of the interests of service or fail to perform or improperly perform their duties or manifest an unscrupulous or neglectful attitude towards their duties may, as prescribed by law, be brought to justice in accordance with articles 308 and 314 of the Criminal Code of Azerbaijan.

Depending on the nature of the violations, they may be punished by disciplinary, financial or administrative action.

Pursuant to article 42 of the Notaries Act of Azerbaijan, a notary or other official who, while performing a notarial act, becomes aware of violations of the law in connection with the performance of such an act, is required to inform the relevant institution, enterprise, organization or prosecutor's office so that appropriate measures may be taken. If the authenticity of the document submitted is in doubt, the notary or other official performing the notarial act must submit the said document for expert examination.

Information on contracts concluded by natural or legal persons indicated in the list of terrorists and terrorist entities prepared by the Security Council Committee in implementation of Council resolutions 1267 (1999), 1333 (2000) and 1390 (2002) must be transmitted by the financial intermediaries to the relevant State authorities. It should also be noted that the Act on Investigative Activities provides law-enforcement bodies with the possibility of obtaining the relevant operational information in this regard.

Following the amendments and additions to the Currency Regulation Act, information concerning the conveyance across the Azerbaijani frontier of currency (funds in currency form) in an amount exceeding the equivalent of US$ 50,000 (fifty thousand) must be transmitted to the relevant State bodies within seven days.

- **Subparagraph 1 (c)**

Question: Please outline the current procedure to freeze funds, financial assets and other economic resources of persons and entities with links to terrorism.

In accordance with the Code of Criminal Procedure of Azerbaijan, the seizure of property is carried out with a view to ensuring that civil action may be taken and the property confiscated in cases provided for by criminal law, and entails preparing an inventory of the property and barring the possessor or owner from taking any action vis-à-vis the property and, where necessary, from using it. The seizure of bank deposits entails the cessation of any operations involving them. The seizure of property may be effected only in such cases where the material gathered in the criminal case provides sufficient grounds for such action. The seizure of property is carried out, as a rule, on the basis of a court order. In cases that brook no delay, where there is specific information enabling the conclusion to be drawn that property or articles or funds acquired by criminal means may be destroyed, damaged, corrupted, concealed or alienated by the person who committed the crime, to the detriment of any ongoing civil action, the investigator may seize the property in the absence of a court order, while observing the requirements of the Code of Criminal Procedure.

As to the direct procedure of freezing bank accounts, action is taken as follows: in the event that bank accounts of persons suspected of terrorism are tracked down, such information is submitted without delay to the National Bank of Azerbaijan. The National Bank, in turn, transmits the information to the relevant law-enforcement bodies and branches of the Ministry of National Security, and subsequently, based on a court decision, the accounts are frozen. It should be noted that bank accounts of persons suspected of having links to terrorism, as already indicated, are frozen on the basis of a court decision, and in practice, in the

implementation of such decisions the National Bank generally transmits them to all banks of the Republic.

- **Subparagraph 1 (d)**

Question: Can non-resident persons and entities hold funds and financial assets in Azerbaijani financial institutions?

Under the Act on Banks and Banking Activities, relations in Azerbaijan between credit organizations and their clients are based on agreements. A credit organization is not entitled to determine and control the manner of use of funds by its clients, or to restrict in a way not provided for by legislative acts or agreements the right of clients to utilize funds at their discretion. The credit organization has the right to open and operate accounts of natural and legal persons, and to effect settlements in respect of accounts of such persons, including corresponding credit organizations, upon their instructions. The credit organization's depositors may be Azerbaijani citizens, foreign nationals and stateless persons. Depositors may have access to their deposits, receive interest income from them, and carry out clearing operations.

Question: What laws, practical controls and surveillance measures exist, apart from registration, to ensure that funds and other economic resources collected for religious, charitable or cultural purposes are not diverted to other purposes, in particular, the financing of terrorism?

The Ministry of National Security and other law-enforcement bodies of Azerbaijan conduct the necessary investigations with regard to entities (including humanitarian organizations) suspected of links with terrorism or of possibly of rendering it support. As a result of these measures the activities of such entities, including their economic activities, are invalidated. Thus, beginning with the year 2000, the Ministry of National Security carefully investigated the missions of certain charitable associations that carry on activities in Azerbaijan, and on the basis of the outcome of those investigations, the Ministry of Justice denied the said organizations state registration on the grounds that they were engaging in religious propaganda in violation of their official status and that they were participating in the financing of certain terrorist-oriented groups and dispatching them to areas of conflict.

In addition, in order to prevent income derived from religious, cultural or charitable objectives from being diverted to the financing of terrorism, a new law on banks was drafted, laying down conditions for the identification and licensing of clients.

Furthermore, pursuant to Decree No. 25 of 3 July 1998 of the Chairman of the State Customs Committee adopted by the State Customs Committee and registered with the Ministry of Justice concerning the implementation at frontier-crossing points of Azerbaijan of Decision No. 95 of 28 April 1998 by the Cabinet of Ministers of Azerbaijan relating to the regulations for the conveyance by natural persons across the frontier of Azerbaijan of national currency of Azerbaijan, securities denominated in the national currency and other currencies, a certificate (GA-5) is issued for currency brought into Azerbaijan in amounts exceeding US$ 10,000 (ten thousand). In accordance with decree No. 013 of 13 February 2002

of the Chairman of the State Customs Committee concerning currency brought into the territory of Azerbaijan, which was agreed with the National Bank and the Ministry of Taxation of Azerbaijan, sums over US$ 50,000 (fifty thousand) are reported to the National Bank and the Ministry of Taxation.

- **Subparagraph 2 (a)**

Question: Please outline the legal and other measures which regulate the manufacture, sale, possession, storage and transport of weapons and explosives within Azerbaijan.

In Azerbaijan, the legal relationships connected with the movement of official and civilian weapons and ammunition are governed by the Act on Official and Civilian Weapons, which was adopted on 30 December 1997 and put into force by a presidential decree of 21 February 1998. The term "movement of weapons" is deemed to cover the manufacture, import, export, sale, transfer to another person, acquisition, collection, exhibiting, stocktaking, storage, carrying, transport, use, conveyance, withdrawal and destruction of weapons. This Act governs the movement and use of light weapons and firearms. Control over the movement of any particular type of weapon within Azerbaijan is exercised by the Ministry of the Interior and the State Centre for Standardization and Metrology.

Under articles 228-232 of the Criminal Code of Azerbaijan, criminal liability attaches to the unlawful acquisition, transfer, sale, storage, transport or carrying of firearms or components thereof, ammunition, explosive substances and explosive devices.

Under Presidential Decree No. 637 of 4 October 1997 establishing a list of types of activity requiring special authorization (licensing), the manufacture or repair of war materiel, including all types of weapons and ammunition, means of defence, military equipment and components, and the elimination (burial, conversion, etc.) of unserviceable military technology and ammunition are carried out on the basis of licences issued by the Ministry of Defence.

Question: Please explain how international trade in weapons and explosives is regulated by Azerbaijan.

Under paragraph 7.1 of the regulations on import and export operations in Azerbaijan, approved by Presidential Decree No. 609 of 24 June 1997 concerning the further liberalization of foreign trade with Azerbaijan, the import and export of weapons and military technology and components needed for their manufacture, gunpowder, explosive substances, explosive and pyrotechnic devices, nuclear materials, technology, equipment and installations, specific non-nuclear materials and radioactive materials, including nuclear waste, are conducted exclusively on the basis of decisions of the Cabinet of Ministers. Such items may not be exported on credit or by consignment, and this restriction applies in the context of internal trade.

Licences are issued in accordance with the following procedure. Applications for a licence to export a particular type of product must be submitted to the Cabinet of Ministers, which in turn transmits them for verification to the relevant ministries and State organs. Generally these applications are checked by the Ministry of Defence, the Ministry of National Security, the Ministry of the Interior, the Ministry of Health, the State Committee for the Maintenance of Security in Industry and

Mines, the Ministry of the Environment and Natural Resources, the Academy of Sciences, research institutes and other State institutions. A licence may be issued by the Cabinet of Ministers only after receipt from those bodies of a positive response.

Persons engaging in the illegal export or manufacture of weapons are held criminally liable under articles 206 and 279 of the Criminal Code.

Any kind of weapon, including light weapons and firearms, may be imported into Azerbaijan only in such cases where the supplier is a government organization authorized to conduct such operations. Weapons may be imported by enterprises authorized to manufacture, sell or acquire them only after the weapons have been certified and such information has been entered into the Register. Imported weapons and ammunition must bear a stamp and must be marked in accordance with the relevant standards. Any kind of light weapon or firearm produced in Azerbaijan or imported into the Republic must be certified. If there is no agreement with the manufacturing State on reciprocal recognition of certification, weapons imported into Azerbaijan must be certified on the basis of an application submitted by the manufacturer of the imported light weapon or firearm.

The State Centre for Standardization and Metrology issues certificates following satisfaction of certification requirements for light weapons and firearms. The certificate grants the right to circulate the weapons in Azerbaijani territory.

The Republic of Azerbaijan is a party to the Convention on the Marking of Plastic Explosives for the Purpose of Detection of 1 March 1991 (Act of Accession of the Republic of Azerbaijan No. 746-IQ dated 9 November 1999), and is taking a number of measures to comply with its international obligations. In addition, Azerbaijan is a party to the Document of the Organization for Security and Cooperation in Europe (OSCE) on Small Arms and Light Weapons, adopted at the 308th plenary meeting of the OSCE Forum for Security Cooperation on 24 November 2000. As for international cooperation on questions relating to small arms and light weapons, it should be noted that, in addition to the United Nations and OSCE, Azerbaijan has partnership links with the States members of the Euro-Atlantic Partnership Council/Partnership for Peace.

Azerbaijan does not manufacture, import or export nuclear, chemical or bacteriological weapons. The international legal instruments in this field to which Azerbaijan is a party are the following:

- Treaty on the Non-Proliferation of Nuclear Weapons of 1968 (Act of the Republic of Azerbaijan No. 254 of 4 August 1992);
- Final document of 1996 adopted by the States parties to the Treaty on Conventional Armed Forces in Europe (Act of the Republic of Azerbaijan No. 295-IQ of 16 May 1997);
- Agreement between the Republic of Azerbaijan and the International Atomic Energy Agency for the Application of Safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons and the Additional Protocol thereto, signed in Vienna on 6 November 1998 (Act of the Republic of Azerbaijan No. 629-IQ of 23 March 1999);
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction of 1992 (Act of Accession of the Republic of Azerbaijan No. 735-IQ of 9 November 1999);

– Comprehensive Nuclear-Test-Ban Treaty of 1996 (Act of the Republic of Azerbaijan No. 551-IQ of 1 December 1998).

European Convention on the Control of the Acquisition and Possession of Firearms by Individuals, signed at Strasbourg on 28 June 1978 (Act of Accession of the Republic of Azerbaijan No. 835-IQ of 17 March 2000).

- **Subparagraph 2 (b)**

Question: Please describe the mechanism to provide early warning to other Member States of anticipated terrorist activity.

Should Azerbaijan receive any information regarding the preparation of a terrorist act against another State, the information would be carefully scrutinized and transmitted, together with a proposal concerning the possibility of offering assistance, to the competent bodies of the State concerned.

The Ministry of National Security of Azerbaijan extends cooperation in the field of counter-terrorism, including the early exchange of information on terrorist activities with the special services of other States on a bilateral or multilateral basis. For example, the Ministry of National Security has signed 14 bilateral agreements and one protocol on cooperation and mutual assistance with the security agencies of 12 States. The provisions of these agreements provide for specific mechanisms for cooperation in counter-terrorism, including early warning transmitted to foreign partners.

As to multilateral cooperation in this field, it should be noted that the Ministry of National Security has signed a protocol (with addenda I and II) for convening a conference of heads of security agencies of the Turkic-speaking States, an agreement on combating organized crime as the basis for the activities of the Council of Heads of Security Organs and Special Services of the States Members of the Commonwealth of Independent States (CIS), a protocol on counter-terrorism, over 20 different protocols on combating terrorism and other kinds of organized crime, including a protocol on cooperation and mutual assistance among the security organs and special services of the States members of CIS in the struggle against terrorist, separatist and other extremist activities carried out under the cover of religious, ethnic or political pretensions, adopted in July 2000 in Kiev at a meeting of the above-mentioned Council.

Paragraph 2.4 of the statute of the Counter-Terrorism Centre of the States members of CIS provides for the creation, on the basis of the unified data bank of the security organs and special services and the data banks of other competent organs of the States members of CIS, of a specialized data bank on:

– International terrorist and other extremist organizations, their leaders and other persons connected with them;

– The nature, dynamics and trends of international terrorism and other manifestations of extremism in the States members of CIS and other States;

– Non-governmental entities and persons providing support to international terrorists.

Azerbaijan, which plays an active role in the Centre's activities, supplies information to the competent bodies of States members of CIS on a regular basis, as well as at the request of those bodies.

With regard to cooperation among the organs of different States, it should be pointed out that the above-mentioned bilateral and multilateral agreements have laid the groundwork for a mechanism for interdepartmental cooperation among States in the field of border control and, the suppression of economic crimes and drug dealing. In particular, these matters were reflected in the Memorandum signed by Azerbaijan and the Ministry of the Interior of the Islamic Republic of Iran for Cooperation on Border Issues and the Fight against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances and Other Kinds of Contraband, and in the Protocol concluded in March 2002 by the frontier troops of the Ministry of National Security of Azerbaijan and the State Department for Frontier Protection of Georgia relating to surveillance, frontier-crossing points and exchange of information. On 29 April 2002, a trilateral agreement was signed in Trabzon by Azerbaijan, Georgia and Turkey on cooperation in the suppression of terrorism, organized crime, illicit trafficking in narcotic drugs and psychotropic substances, the legalization of illegally acquired income (money-laundering), arms smuggling and the arms trade, and other grave crimes.

- **Subparagraph 2 (c)**

Question: Please describe the measures in place in Azerbaijan to deny safe haven to persons accused or suspected of committing terrorist acts.

Pursuant to article 70 of the Constitution of the Republic of Azerbaijan and in connection with generally accepted principles of international law, Azerbaijan grants asylum to foreign nationals and stateless persons.

The Act of 8 July 1999 of Azerbaijan on the Status of Refugees and Forcibly (Internally) Displaced Persons establishes the following:

"Article 2. Cases where the status of refugee shall be denied:

"– To persons who, as established by international law, have committed a crime against the peace, a war crime or a crime against mankind or humanity.

"– To persons who, prior to entering the territory of the Republic of Azerbaijan, have committed outside its borders a grave or particularly grave crime of a non-political nature;

"– To persons found guilty of having committed acts that are contrary to the purposes and principles of the United Nations.

"Article 8. Sending foreign nationals and stateless persons to another country.

"Persons who under the present Act cannot be granted refugee status and asylum may be sent to another country pursuant to the Act of the Republic of Azerbaijan on the Legal Status of Foreign Nationals and Stateless Persons.

"Article 15. Deprivation of the status of refugee and prohibition on the sending, transfer or forcible return of refugees to another country.

"Persons shall lose refugee status in cases where they constitute a threat to State security and public order, where refugee status was obtained by

submitting knowingly false information or false documents, upon deprivation of liberty for a specific period or lifelong deprivation of liberty following a sentence by a court of law which has entered into force for having committed a grave or particularly grave crime."

Under the Decree of 13 November 2000 of the President of Azerbaijan, the procedures for consideration of a petition for the granting of refugee status are as follows:

Citizens of a foreign country or stateless persons desiring to acquire refugee status in Azerbaijan but who lack the requisite documents attesting to their identity or who lack grounds for legal immigration into the territory of Azerbaijan and wish to acquire refugee status shall, in accordance with the norms of international law, conform to the identification procedures followed by the organs of internal affairs — and where necessary, fingerprinting — and prior to verification of the authenticity of the information submitted by them shall remain in a temporary-accommodation centre.

Foreign nationals or stateless persons who submit a petition for refugee status shall fill out a special questionnaire indicating the reasons for their request for refugee status and giving information about their country, place of birth and family circumstances together with details about themselves and members of their family (including persons under their guardianship or tutelage), and shall also submit to the State Committee on Refugees and Forcibly Displaced Persons a travel document or a document establishing identity (foreign passport, travel certificate, etc.).

The authorized officials of the State Refugee Committee conduct an interview with the person submitting the petition for the granting of refugee status.

The interview is conducted on an individual basis and what transpires in the course of it is not published.

During the interview, such persons must disclose the facts underlying the reasons for their request for refugee status, and also shall give an account of their places of residence, routes travelled, reasons for stopping in the territory of other States, particulars of any application submitted for the granting of refugee status in those States or the absence of any such application, and other relevant information.

In the event of a refusal by persons intending to acquire refugee status to communicate information about themselves, or should they knowingly provide false information about the reasons for the request of refugee status, consideration of their petition is terminated without regard to the stage it has reached and, in accordance with the legislation in force, such persons are denied the acquisition of refugee status.

All information provided by persons wishing to acquire refugee status about themselves and their family and everything stated in the course of the interview is noted down in the questionnaire.

The petitions and questionnaires of persons who have applied for the granting of refugee status are transmitted to the Ministry of the Interior and the Ministry of National Security for their consideration.

The Ministry of the Interior and the Ministry of National Security, during a period of one month, conduct the requisite investigation of the individual case and inform the State Refugee Committee of the results obtained.

The new draft counter-terrorism act will be considered a special basis for denial of the granting of refugee status to persons who have been indicted for the commission of terrorist acts or who have previously been tried for such crimes.

- **Subparagraph 2 (d)**

Question: Please outline the legal and other measures available in Azerbaijan to prevent the use of its territory for terrorist acts outside Azerbaijan.

In accordance with the legislation of the Republic of Azerbaijan, the use of the territory of Azerbaijan to commit terrorist [acts] against other States is prohibited.

Under the Constitution and domestic legislation of the Republic of Azerbaijan, not only the direct commission of a terrorist act, but also preparations for such an act, are regarded as criminal offences. As noted earlier in response to subparagraph 1 (a), in accordance with articles 17 and 21 of the Counter-Terrorism Act, persons participating in terrorist activities incur liability under the legislation of the Republic of Azerbaijan: in the interests of ensuring human rights and freedoms and safeguarding State and international security, and on the basis of the legislation of the Republic of Azerbaijan and also of international treaties endorsed by the Republic of Azerbaijan, persons who commit terrorist acts or participate in the commission of such acts, wherever such acts may have been planned or committed, are brought to trial and sentenced or may be extradited to a foreign State to stand trial or to serve their appointed sentence.

Azerbaijan is fulfilling its obligations with regard to early warning and assisting other States with established information about intentions of individuals, groups and organizations to commit terrorist acts against other States both from the territory of Azerbaijan and beyond its borders, by virtue of agreements signed by the Ministry of the Interior and its counterparts in other States. Similar arrangements are also being made in relation to States with which no agreements have been concluded in this area, on the basis of the norms of the relevant international conventions and international law as a whole.

Under the procedure established by the legislation of the Republic of Azerbaijan, the law enforcement bodies engaged in operational, intelligence and detection activities and investigation of existing information on use of the territory of Azerbaijan to commit terrorist acts against other States are also cooperating with their foreign partners. Nevertheless, the territories of Azerbaijan which are still under occupation by Armenia are used both by Armenia itself and by terrorists, terrorist groups and international terrorist organizations, supported by the separatist regime in Nagorny Karabakh, to commit terrorist acts against Azerbaijan and other States.

- **Subparagraph 2 (f)**

Question: Please describe the procedures in Azerbaijan to deal with requests from other member States for assistance in criminal investigations and criminal proceedings.

Legal assistance in criminal matters is provided on the basis of multilateral and bilateral treaties on the provision of legal assistance in criminal matters and extradition, the Code of Criminal Procedure of the Republic of Azerbaijan, and also the Act on Legal Assistance in Criminal Matters.

The legislation of the Republic of Azerbaijan permits the provision of legal assistance in criminal matters both to countries with which it has an international treaty on the matter and to countries with which there is no such treaty. In cases where there is an international treaty, legal assistance is sought under the procedure laid down in the treaty. As of today's date, Azerbaijan is a party to two multilateral treaties (the European Convention on Mutual Assistance in Criminal Matters of 1959 and the Convention of the Commonwealth of Independent States on legal assistance and legal relations in civil, family and criminal matters of 1993) and a number of bilateral agreements (with the Russian Federation, Turkey, Greece, Kazakhstan and so forth).

In the absence of a treaty, legal assistance is requested under the procedure laid down by the act "On legal assistance in criminal matters" and on the basis of existing practice in international law. In accordance with the above-mentioned act, in order to receive legal assistance in criminal cases, the competent body of a foreign State must make a request to the Ministry of Justice of the Republic of Azerbaijan. The request for legal assistance must indicate the following:

- The name of the competent body of the requesting State;
- The name of the competent body carrying out the investigation, inquiry or prosecution associated with the request;
- The object and content of the request;
- Indications of the nature of the crime, description of the facts and classification of the action, text of the relevant criminal law of the requesting State;
- The full name of the person in respect of whom the submission of documents is requested, and information on his place of residence;
- Other information for consideration of the request for the provision of legal assistance;
- Information on the identity and place of residence of the person in respect of whom information and material evidence is requested;
- Information on the identity of the person, establishment of whose whereabouts is sought, and on the presumed whereabouts;
- Description of the place or person to be searched, and also material evidence (objects) to be confiscated;
- List of questions to be put to the person;

- Amount to be paid to the person sought in a foreign State, and information on coverage of costs.

If necessary, in order to provide legal assistance, the Ministry of Justice may request additional information.

The Ministry of Justice or other competent body of the Republic of Azerbaijan fulfil requests for legal assistance under the procedure envisaged in the laws of the Republic of Azerbaijan.

Legal assistance within the area of the Commonwealth of Independent States is provided in accordance with the Convention on legal assistance and legal relations in civil, family and criminal matters of 23 January 1993, which was ratified by the Parliament of the Republic of Azerbaijan on 1 September 1995, and also the Act on the Extradition of Offenders of 19 June 2001.

In accordance with article 5 of the Convention, the competent judicial institutions of the Contracting Parties communicate with each other through their central bodies.

In accordance with article 56 of the Convention, the Contracting Parties undertake, under the conditions envisaged in the Convention, upon request, to extradite persons in their territories to each other for the purposes of prosecution or the execution of a sentence.

The request for extradition (article 58 of the Convention) must contain:

- The name of the requested institution;
- A description of the actual circumstances of the case and the text of the law of the requesting State on the basis of which the action is categorized as a crime;
- The full name of the person who is to be extradited, his nationality, place of residence or stay, and if possible a description of his appearance and other information about his identity;
- An indication of the extent of the damage caused by the crime.

A request for extradition for the purposes of prosecution must be accompanied by a certified copy of the arrest warrant.

A request for extradition for the purposes of executing a sentence must be accompanied by a certified copy of the verdict, with an annotation of its entry into force and the text of the provision of the criminal law on the basis of which the person was convicted. If the convicted person already served part of the sentence, information must also be provided to that effect.

Extradition is not carried out (article 57 of the Convention) if:

- The person whose extradition is requested is a national of the requested State;
- At the time when the request is received, criminal proceedings cannot be initiated or a verdict cannot be implemented under the laws of the requested State because of the expiry of the statute of limitations or for other legitimate reasons;

- In relation to the person whose extradition is requested, a verdict or a decision to close the proceedings on the case was issued in the territory of the requested State for the same crime;
- The crime, in accordance with the laws of the requesting or requested State, is being prosecuted as a private lawsuit (as a claim by the victim).

Extradition may be denied if the crime in relation to which extradition is requested was committed in the territory of the requested State.

In the event of denial of extradition, the requesting State must be informed of the grounds for denial.

- **Subparagraph 2 (g)**

Question: Please provide information on the mechanism for inter-agency cooperation among the agencies responsible for tracking suspicious financial transactions, narcotics control security, and in particular border control.

In the area of the detection of suspicious financial operations, the Ministry of the Interior coordinates its work with the Ministry of Finance, the National Bank and also the relevant structures of the Ministry of National Security.

The campaign against illicit drug trafficking is conducted in accordance with the provisions of domestic legislation. The State bodies responsible for organizing the monitoring of the safe circulation of narcotic drugs, psychotropic substances and precursors, which are required to make constant efforts to control the spread of drug addiction, are the Ministry of Health, the Ministry of the Interior, their special structural sub-departments and other bodies.

In view of the urgency of the problem of controlling illicit trafficking of narcotic drugs, psychotropic substances and precursors, intensive work is being carried out in the Republic of Azerbaijan to establish a legal basis for combating these types of offences.

The tasks of the State bodies in the area of combating drug addiction and illicit drug trafficking are defined by the decree of the President of the Republic of Azerbaijan of 26 August 1996 on measures to combat drug addiction and illicit drug trafficking and the Act of 18 June 1999 on Control of Illicit Trafficking in Narcotic Drugs, Psychotropic Substances and Precursors.

The State Programme to combat illicit drug trafficking and the spread of drug addiction, approved by a decree of the President of the Republic of Azerbaijan of 15 July 2000, is a vital document determining the role and tasks of the law enforcement bodies in combating drug addiction and illicit drug trafficking, and also of other State bodies which are responsible for waging a continuous campaign to control the spread of drug addiction and for organizing the monitoring of the safe circulation of drugs. On the basis of the provisions of this Programme and a number of other regulatory instruments, the law enforcement bodies of the Republic are waging a successful and effective campaign against offences linked with illicit drug trafficking and smuggling.

The Act on the Prosecutor's Office provides for monitoring by the prosecutor of compliance with the law during investigation, inquiry, intelligence and detection

activities in relation to cases of this type. Active and effective measures are being taken to prevent and avert drug-related crimes.

The results of the work carried out and the degree of fulfilment of the provisions of the Programme are periodically reviewed at meetings of the State Commission to combat drug addiction and illicit drug trafficking, which is the main coordinating body for interdepartmental cooperation in this sphere.

- **Subparagraphs 3 (a), (b) and (c)**

Question: Please describe the steps taken or proposed to be taken to comply with these subparagraphs.

See answers regarding subparagraphs 2 (b), 2 (d), 2 (f), 2 (g) and 3 (e).

Subparagraph 3 (d)

Question: The CTC would welcome a report, in relation to the international conventions and protocols relating to terrorism, on the progress achieved by Azerbaijan in:

enacting legislation and making other necessary arrangements to implement the instruments to which it is a party;

Azerbaijan is a party to eight international counter-terrorism conventions. Their provisions have been partially incorporated into domestic law, but to ensure fuller implementation of all the obligations that they create, a new counter-terrorism act will be adopted and changes will be made to the criminal, financial and banking legislation.

Azerbaijan has signed the 1957 European Convention on Extradition and the Additional Protocols to that Convention of 15 October 1975 and 17 March 1978, the 1977 European Convention on the Suppression of Terrorism, the Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters of 17 March 1978, the European Convention on the Transfer of Proceedings in Criminal Matters of 15 May 1972 and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 8 November 1990. Domestic procedures for the ratification of those instruments are under way.

and becoming a party to those to which it is not yet a party.

The Republic of Azerbaijan is prepared to become a party to the international counter-terrorism conventions which it has not yet signed; that issue is currently being examined.

- **Subparagraph 3 (e)**

Question: Please provide a list of the countries with which Azerbaijan has concluded bilateral treaties relating to anti-terrorism and extradition.

Azerbaijan has bilateral agreements on extradition with the following countries:

1. Russian Federation — agreement on legal assistance and legal relations in family, civil and criminal matters;

2. Georgia — agreement on legal assistance and legal relations in family, civil and criminal matters;

3. Kazakhstan — agreement on legal assistance and legal relations in civil matters;

4. Uzbekistan — agreement on legal assistance and legal relations in family, civil and criminal matters;

5. Kyrgyz Republic — extradition agreement;

6. Lithuania — agreement on legal assistance and legal relations in family, civil and criminal matters;

7. Turkey — agreement on legal assistance in civil, commercial and criminal matters;

8. Bulgaria — extradition agreement;

9. Islamic Republic of Iran — extradition agreement.

With regard to counter-terrorism agreements, the Ministry of National Security of the Republic of Azerbaijan and the Federal Security Service of the Russian Federation have signed a protocol on cooperation in combating international terrorism and a protocol on cooperation and mutual assistance between the security organs and special services of the States members of the Commonwealth of Independent States to combat the phenomena of religious, ethnic and political terrorism, separatism and other extremist action. Relevant agreements have also been signed with the security agencies of Belarus, Ukraine, Moldova, Georgia, Kyrgyzstan, Kazakhstan, Uzbekistan, Turkmenistan, Tajikistan, Egypt and Turkey.

Question: Please indicate whether the crimes mentioned in the relevant international conventions and protocols have been included as extraditable offences in the bilateral treaties which Azerbaijan has concluded with other countries.

All the crimes mentioned in the international counter-terrorism conventions are included as extraditable offences in the agreements on extradition and legal assistance.

- **Subparagraphs 3 (f) and (g)**

Question: Please provide an outline of the legal and other measures in force to ensure compliance with these subparagraphs.

See answers regarding subparagraph 2 (c).

- **Paragraph 4**

Question: Has Azerbaijan addressed any of the concerns expressed in paragraph 4 of the resolution?

Azerbaijan engages in international, regional and subregional cooperation to combat international terrorism, transnational organized crime, money-laundering, illicit trafficking in narcotic drugs, psychotropic substances and weapons and illegal

shipments of nuclear, chemical, biological and other potentially lethal materials through its involvement in international organizations and bilateral relations.

The Republic of Azerbaijan is a party to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 (No. 356 of 28 October 1992), the United Nations Single Convention on Narcotic Drugs of 1961 (Act No. 550-IQ of 1 December 1998) and the partial agreement establishing the Pompidou Group of the Council of Europe on cooperation to combat drug abuse and illicit trafficking in drugs (resolutions 80 (02) and 80 (15) of the Committee of Ministers of the Council of Europe; Act of Accession by the Republic of Azerbaijan, No. 78-IIQ of 16 February 2001). In December 2000, Azerbaijan also signed the United Nations Convention against Transnational Organized Crime and its Protocols to Prevent, Suppress and Punish Trafficking in Persons and against the Smuggling of Migrants.

With regard to regional cooperation, a meeting of GUUAM group (Georgia, Ukraine, Uzbekistan, Azerbaijan and Moldova) representatives of ministries and departments dealing with safe and effective operation of transport corridors, held in Baku on 7 and 8 November 2001, established guidelines and areas of cooperation. The latter included preventing the use of transport corridors for terrorist, extremist and criminal purposes, combating international terrorism and organized crime, preventing illegal trading in weapons, combating drug trafficking, countering illegal migration, combating the spread of illegal dissemination of dual-use technology, and refining the system for exchanges of operational information between customs services.

The leaders of the States members of the Commonwealth of Independent States adopted an intergovernmental programme of joint measures to combat crime for the period 2000 to 2003 and a programme of the States members of the Commonwealth of Independent States to combat international terrorism and other forms of extremism for the period until 2003. These laid the foundations for cooperation between the Ministry of the Interior of the Republic of Azerbaijan and the law-enforcement bodies of the other States, encompassing a targeted range of organizational and practical measures to prevent the territory of Azerbaijan from being used as a transit point for narcotics bound for Europe and elsewhere, to combat terrorism, illicit trafficking in arms, explosives and radioactive substances, and to combat the laundering of "dirty" money and other forms of transnational organized crime. An agreement on counter-terrorism cooperation between ministries of the interior was signed at the meeting of the Council of the Ministers of the Interior of the Commonwealth of Independent States held in Cholpon-Ata from 6 to 8 September 2001.

On 2 October 1998, within the framework of the Black Sea Economic Cooperation process, the Republic of Azerbaijan signed an agreement on cooperation to combat crime, especially organized crime.

On 7 August 2000, a conference on youth and drug addiction was held in Azerbaijan. It had been organized jointly by the State Commission to combat drug addiction and illicit drug trafficking and the World Assembly of Muslim Youth (Saudi Arabia).

One of the results of Azerbaijan's efforts to strengthen cooperation with European countries to counter organized crime is the country's admission to the South East European Cooperative Initiative (SECI) as an observer on 8 April 2002.

As mentioned earlier, Azerbaijan, Georgia and Turkey signed a trilateral agreement on cooperation in the suppression of terrorism, organized crime, illicit trafficking in narcotic drugs and psychotropic substances, the legalization of illegally acquired income (money-laundering), arms smuggling and the arms trade and other grave crimes in Trabzon on 29 and 30 April 2002.

Bilateral agreements concluded by the appropriate Azerbaijani entities are:

- Agreement between the State Customs Committee of the Republic of Azerbaijan and the Ministry of Revenues of the Republic of Kazakhstan on cooperation to combat smuggling and the violation of customs rules, illicit trade in arms, munitions, explosives and precursors, signed in Baku on 7 April 2000;
- Intergovernmental agreement between the Republic of Azerbaijan and the Republic of Uzbekistan on cooperation to combat crime, signed in Baku on 25 July 2000;
- Agreement between the State Customs Committee of the Republic of Azerbaijan and the State Customs Committee of the Republic of Uzbekistan on cooperation to combat smuggling and the violation of customs rules, signed in Baku on 25 July 2000.

Cooperation agreements to combat trafficking in narcotic drugs have been signed with appropriate entities in the United States, Germany, the United Kingdom, Iran, Egypt, the Gulf States, the Commonwealth of Independent States and other countries. Azerbaijan actively cooperates with the Interpol Bureau in Baku. Action was undertaken with the United Nations Development Programme (UNDP) as part of the project of comprehensive counter-narcotics assistance for 1997 to 1999. Cooperation is currently under way with the Antinarcotizm international research centre and the fund against drug addiction. In particular, the Azerbaijani State entities and non-governmental organizations active in Azerbaijan have received logistical assistance and help with vocational training, scientific workshops/ conferences and consultations have been organized, awareness-raising campaigns targeting the general public, students and military personnel have taken place and assistance has been provided to organize prevention and treatment.

As pointed out in the answer regarding subparagraph 2 (g), the legal basis for combating crimes connected with narcotics is the Presidential Decree of 26 August 1996 on measures to combat drug addiction and illicit drug trafficking, the Act on Control of Illicit Trafficking in Narcotic Drugs, Psychotropic Substances and Precursors, the Police Act, the Act on Investigative Activities, the Counter-Terrorism Act and the Act on the Drug Agency and Drug Control, which have been examined by the legal committee of the Council of Europe and in the light of the Criminal Code and Code of Criminal Procedure.

The State Narcotics Control Committee, headed by a deputy prime minister, develops counter-trafficking policies. The Ministry of the Interior, meanwhile, is continuing its programme of counter-trafficking measures, jointly with the local authorities, in southern Azerbaijan, along the border with Iran. In 2000, the State

Commission to combat drug addiction and illicit drug trafficking began setting up regional commissions in towns and regions of the country.

A yearly intelligence, detection and prevention programme, *Khash Khash*, is conducted throughout the country. However, as in the past, the part of Azerbaijan occupied by Armenia continues to be used as a transit point for narcotics, which enter through the approximately 130 kilometres of border with Iran controlled by Armenian troops.

Other matters

Could Azerbaijan please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the resolution.

The financial supervision bodies are the Ministry of Finance, Ministry of Taxation and National Bank.

The immigration control authorities are the border guard of the Ministry of National Security, the department for visas and registration of foreign citizens of the Ministry of the Interior and the consular department of the Ministry of Foreign Affairs.

An organizational chart of the Ministry of Taxation is attached as annex I.

The structure of the State Customs Committee, as approved by Presidential Decree No. 510 of 19 June 2001, is as follows:

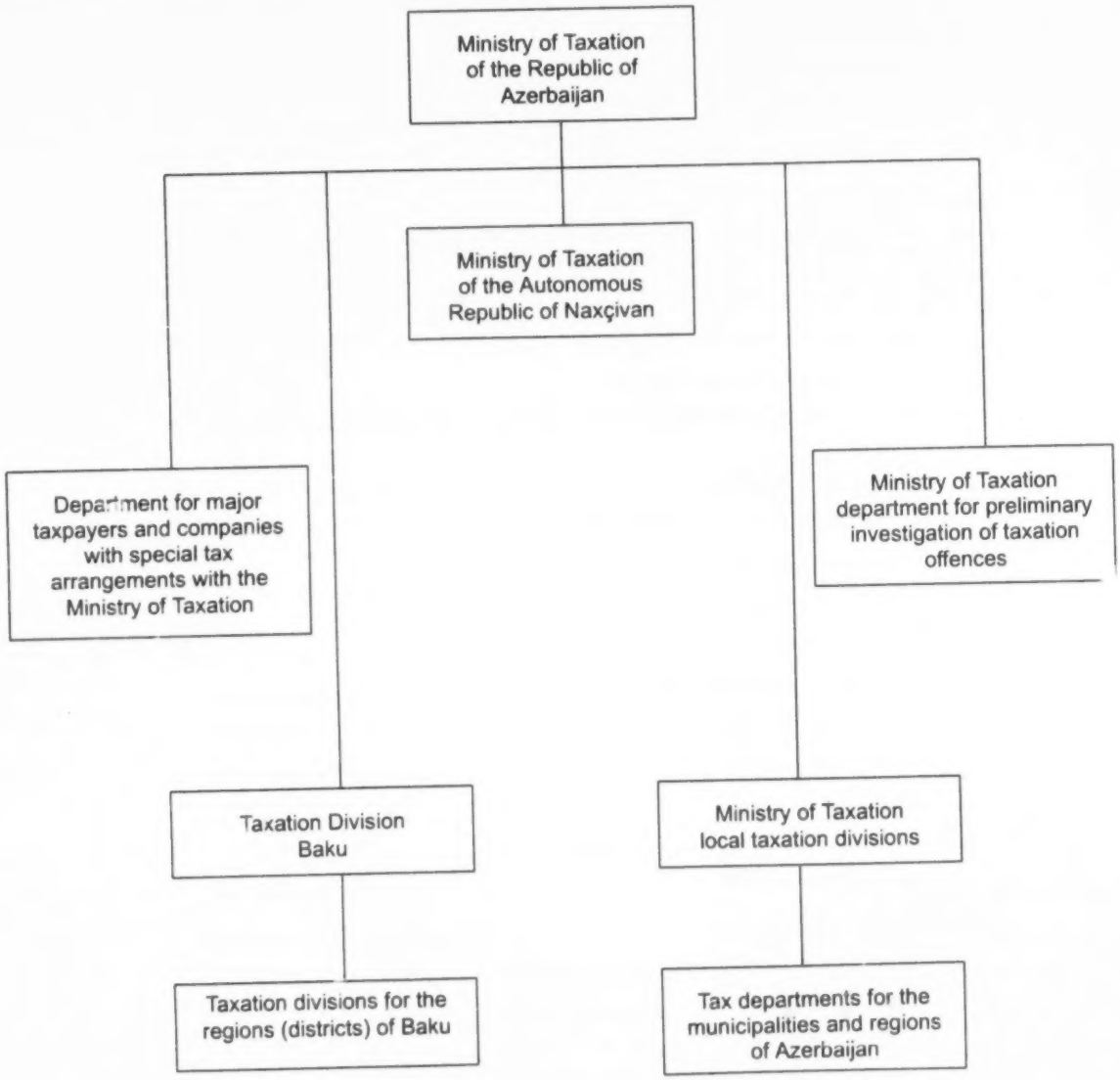
1. Management:
   - Chairman
   - First Deputy Chairman
   - Deputy Chairmen (3)
2. State Customs Committee of the Republic of Azerbaijan:
   - Secretariat
   - Customs Inspection Division
   - Division for the Suppression of Smuggling and Violations of Customs Rules
   - Division for Financial Tariffs and Exchange Control
   - Personnel Department
   - Internal Investigations Department
   - Investigative Department
   - International Relations Department
   - Statistics and Information Technology Department
   - Press Service
   - Department of Administration

- Buildings and Logistics Department
- Legal Office
- Analysis Office
- Intelligence Office
- Accounts Office
- Customs Security Service
- Standby unit

3. The following entities and organizations are part of the system of the State Customs Committee of the Republic of Azerbaijan:

- Customs Committee of Naxçivan
- Baku Municipal Customs Division
- Air Transport Customs Division
- Division for the Protection of the Economic Interests of Azerbaijan in the Caspian Sea
- Energy Customs Office
- Naxçivan Municipal Customs Office
- Astara customs post
- Balakän customs post
- Biläsuvar customs post
- Äli Bayramlı customs post
- Yevlax customs post
- Gäncä customs post
- Sädäräk customs post
- Sumqayıt customs post
- Tovuz customs post
- Xaçmaz customs post
- Khoda Afarin customs post
- Culfa customs post
- Central laboratory
- Azerterminalcomplex — international economic entity's vehicle operations
- Training centre
- Sports/therapy centre

Annex I


Ministry of Taxation of the Republic of Azerbaijan
Ministry of Taxation of the Autonomous Republic of Naxçivan
Department for major taxpayers and companies with special tax arrangements with the Ministry of Taxation
Ministry of Taxation department for preliminary investigation of taxation offences
Taxation Division Baku
Ministry of Taxation local taxation divisions
Taxation divisions for the regions (districts) of Baku
Tax departments for the municipalities and regions of Azerbaijan